



## **Finance Bill 2010**

### **Personal Taxation**

#### **Restrictions on Tax Reliefs for High Earners**

The aim of this restriction introduced in the Finance Act 2006 was to limit the amount of certain reliefs that “high net worth” individuals could claim. The full restriction will now apply where adjusted income is over €400,000 (previously €500,000). A graduated application of the restriction will apply to individuals who have adjusted income in excess of €125,000. The formula has been amended so that the amount of specified reliefs that an individual can claim is the greater of €80,000 (previously €125,000) or 20% of the individual’s adjusted income. This should increase to 30% (previously 20%) the effective rate of income tax for high income individuals, who are subject to the restriction.

#### **Rental Income**

The Bill confirms the order in which capital allowances and losses are deducted when computing taxable rental income. Capital allowances arising in the year are to be deducted in priority to losses carried forward from a prior year.

#### **Service Charges**

Relief for service charges paid in 2011 and thereafter has been discontinued. Relief will be available in 2011 for service charges paid in 2010.

#### **Remittance basis abolished for Irish domiciled individuals**

With effect from 1 January 2010, the remittance basis of taxation applicable to foreign income will only apply to individuals who are not domiciled in Ireland. Prior to this amendment, Irish individuals who were not ordinarily resident here (i.e. were non-resident for at least three consecutive tax years) could also avail of the relief for a limited period.

#### **Development Land**

The windfall tax legislation was included as a last minute change to the NAMA legislation. Lands that are rezoned will be subject to an 80% windfall tax when the lands are sold. The legislation applies to disposals of lands on or after 30 October 2009 where the rezoning was made on or after 30 October 2009. The windfall tax will arise on the gain attributable to the rezoning only. The Finance Bill includes a number

of amendments including an exclusion of profits on the disposal of small sites (a site of up to 1 acre with a market value of less than €250,000). It also extends the provisions to situations where windfall profits arise in situations where a planning authority grants planning permission in contravention to the development plan for the area.

### **Share Schemes**

The Finance Bill introduces statutory reporting obligation on all share awards to directors or employees. Previously, share awards were generally reportable on Form P11D but only when a return was issued by Revenue to the company for completion. This change brings the disclosure requirements into line with share options which have been reported on Form SO2 for many years. A return will now be required by 31 March 2010 for share awards made during 2009.

### **Capital Gains Tax**

#### **CPO**

The CGT on CPO proceeds was in certain circumstances payable before the receipt of the consideration. This has now been changed so that CGT will only become payable on the date on which the proceeds are received. If the person dies before receiving the payment the payment will be deemed to have become payable immediately before their death.

#### **Retirement Relief**

The Finance Bill confirms that payments under a buyback or redemption of shares (which are not treated as a distribution) and which meet the conditions to qualify for CGT treatment are within the scope of Retirement Relief.

### **Business Tax**

#### **Transfer Pricing**

The Finance Bill includes draft transfer pricing legislation for chargeable periods commencing on or after 1 January 2011. The objective of transfer pricing legislation is to ensure that an arm's length price is charged on transactions between connected persons. There is a full exemption from these provisions for small and medium sized entities. A small or medium sized entity is one with a staff head count of less than 250 and turnover of €50m or less, or a Balance Sheet total of €43m or less. These figures apply to the worldwide group and are assessed annually.

#### **Start-up companies**

The Bill extends the relief for certain start-up companies. The Bill confirms that certain start-up companies which commenced to trade in 2010 will be exempt from corporation tax and CGT in each of the first three years to the extent that their tax liability for the year does not exceed €40,000.

#### **Relevant Contracts Tax (RCT)**

The Bill proposes to amend the current monthly filing and payment obligations for Principal Contractors to within 14 days of the end of a "return" period (to be specified by Revenue in proposed regulations) as opposed to within 14 days of the end of the income tax month.

### **Taxation of Foreign Dividends**

The Finance Bill extends the 12.5% rate of corporation tax to certain foreign dividends received from non-treaty countries.

### **Operating Leases**

The Finance Bill includes a significant change in relation to the tax treatment of operating leases. Up to now the ability of a lessor to elect under Section 80A not to claim capital allowances and to be taxed only on the "interest element" of the lease has been confined to finance leases only.

The Bill now proposes to extend this to operating lessors. This will mean in effect that the lessor under an operating lease can elect to claim a tax deduction equal to the accounting depreciation charged in relation to the asset.

### **Double tax relief for taxes on foreign branches**

An Irish resident company with a branch outside Ireland is generally taxable in Ireland on the foreign branch profits with a credit for foreign taxes paid on those profits. Ireland introduced a unilateral form of credit relief in 2007 for foreign taxes paid by foreign branches in non-treaty jurisdictions. This amendment allows unused credits to be carried forward against corporation tax in succeeding accounting periods.

### **Dividend Withholding Tax**

In the past in order for a non resident company to receive dividends gross they had to provide a Certificate of Residence or an auditor's certificate to the company paying the dividend. The Finance Bill removes this requirement. The dividend can be paid gross once the recipient company provides a declaration in the required format to the paying company. The declaration will be valid for a period of up to six years.

## **Capital Acquisitions Tax**

### **Class Thresholds**

The Revenue Commissioners issued an E-Brief on 15 January 2010 confirming that the Capital Acquisitions Tax Group Thresholds for gifts and inheritances taken in the calendar year 2010 are as follows:

Group A	Generally parent to child	€414,799
Group B	Generally other related persons	€41,481
Group C	Generally non-related persons	€20,740

### **Pay and File**

Changes are being made to the administration of CAT. The Finance Bill proposes changes to the payment and filing deadlines. Where a valuation date falls in the period 1 January to 31 August the tax will have to be paid and a return filed by 31 October in

that year. Where a valuation date falls in the period 1 September to 31 December the tax will have to be paid by 31 October of the following year. The extended ROS filing deadline will apply where ROS is used. This change is subject to a Ministerial Order.

## **Administration**

- Removal of the requirement for Revenue certification of the Inland Revenue Affidavit before submission to the Probate Office. This will apply from mid June 2010 where the deceased died on or after 5 December 2001.
- E-filing will be required where certain reliefs are being claimed.
- Abolition of CAT as a charge on property, eliminating the need for certificates of discharge.
- Abolition of the concept of secondary accountability for the tax due. This is to be abolished retrospectively.
- Requirement for an Irish resident “agent” to be responsible for pay and file procedures where beneficiaries are non-resident.

## **Tax Incentive Schemes**

### **Childcare Capital Allowances Scheme**

The Bill proposes to terminate the scheme of capital allowances for expenditure incurred on the construction, conversion or refurbishment of childcare facilities. Transitional rules will apply to projects that are already in the pipeline. A termination date of 30 September 2010 will apply unless certain qualifying conditions are met.

## **VAT**

### **Local Authorities and Public Bodies**

It is proposed that from 1 July 2010 Local Authorities and public bodies will be subject to VAT in relation to supplies of certain services where non-taxability could lead to a significant distortion of competition (e.g. as off-street parking, swimming pools, refuse collection, etc). It is proposed that the supply of water by local authorities will be exempt from VAT.

## **Pensions**

No changes were made in relation to tax relief for pensions, taxation of lump sums or the caps on pension funding. The Bill does clarify certain issues on imputed distributions from ARFs and introduces changes in relation to PRSAs.

## **Stamp Duty**

The Bill proposes amendments to the life assurance levy to exclude pension and re-insurance business.

The Bill proposes increases to the health insurance levy applicable to renewals and new contracts with health insurers.